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SENSITIVE

STATE FOR AC/CB, NP/CBM, VC/CCB, L/ACV, IO/S
SECDEF FOR OSD/ISP
JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (GOLDMAN)
NSC FOR CHUPA
WINPAC FOR LIEPMAN

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC) - SCENESETTER
FOR THE 36TH EXECUTIVE COUNCIL

This is CWC-28-04.

SUMMARY

[11.](#) (SBU) The accession of Libya to the OPCW undoubtedly will be the highlight of the March 23-26 Executive Council session. The presence of the Libyan Ambassador also provides an opportunity to emphasize the importance of the OPCW tackling new challenges, and having the financial and administrative base to handle those new tasks. Indeed, we anticipate administrative and financial questions (under Agenda Item 14) will play a key role in EC-36, ranging from the impact of Libyan accession on OPCW operations, to the implementation of results-based budgeting, which may be the most significant goal for the organization this year. We should use the EC to prod the Technical Secretariat and States Parties to pursue implementation of the Article VII and universality action plans, and resolve some industry issues which appear ripe for decision. End Summary.

LIBYA

[12.](#) (SBU) Director-General Pfirter utilized the March 5 presentation of the Libyan declaration to generate substantial press coverage of the OPCW. While it is questionable whether the presence of the Libyan Ambassador at EC-36 on March 23-26 could generate similar press interest, Libya will be the focus of attention among the States Parties. For example, it is a good bet that a number of SPS are pouring over the Libyan declaration for any indication of support that had been provided from overseas firms for the Libyan CW program.

[13.](#) (SBU) In addition, there has been a general concern about whether the extra activity caused by Libyan accession would lead to operational difficulties for the TS. Some of the discussion is on whether industry inspections may suffer as resources are devoted to Libya. And some senior TS staff are attempting to use Libya as an excuse to put on hold implementation of the tenure policy. So far, the DG has held firm on not halting implementation of tenure, and the general message from the DG and Deputy DG Hawtin has been that additional Libyan requirements this year are manageable, though some amendments to TS activities may be necessary.

[14.](#) (U) As for the rest of the EC-36 session, the following items are addressed as included on the annotated agenda (EC-36/INF.2/Rev.1, dated March 5 2004):

AGENDA ITEM THREE: DG STATEMENT

[15.](#) (U) We know the DG will report on the state of OPCW activities regarding Libya, including the destruction of unfilled bombs, as well as the issue of resource implications. We will provide the text of his statement when it becomes available.

AGENDA ITEM FOUR: GENERAL DEBATE

[16.](#) (U) We will provide a draft statement for Ambassador Javits to AC/CB for Washington's consideration.

AGENDA ITEM FIVE: STATUS OF IMPLEMENTATION OF THE CONVENTION

[17.](#) (SBU) Implementation of the universality action plan (item 5.1) has deteriorated into a discussion over process.

The question revolves around whether a facilitator is needed, and, if so, whether Consuelo Femenia (Spain) should continue in that role. Huang Yu, External Relations Director, has the TS lead on this issue and is expected to provide a report on

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the status of implementation. We will forward it when it is available. We do not believe the U.S. has a particular interest in how the issue of a facilitator is resolved. Instead, our interest is in prodding the TS and SPs to do more on this action plan.

18. (SBU) A report on implementation of the confidentiality regime is noted under 5.2 (EC-36/DG.9, dated February 11, 2004). Item 5.3 involves proposed amendments to the OPCW policy on confidentiality (EC-36/DEC/CRP.2, dated December 11, 2003). The absence of a facilitator for this issue has complicated consideration of the proposed changes. Informally, the TS has indicated to Del that the proposals reflect the current TS practices.

19. (U) The EC is also requested to note a report (EC-36/DG.5/Rev.1, dated February 17, 2004) on readiness for a challenge inspection (item 5.4).

AGENDA ITEM SIX: ARTICLE VII

10. (SBU) The report on the status of implementation (EC-36/DG.16, dated March 4, 2004) is frankly disappointing. Almost no progress has been made since the DG's September 2003 progress report despite the approval of the Action Plan during the November 2003 Conference of States Parties. Only ten States Parties provided the TS with information required under the Action Plan regarding assistance States Parties needed or assistance they could offer by the February 1, 2004 deadline set by the TS or the March 1 deadline set by the Action Plan. This lack of response adds to our concern regarding the level of support States Parties have for the action plan. One problem is communication: a number of delegations report that they never received the TS Note Verbale; reportedly this includes WEOG members as well as States in regions known for problematic communications between member states and the TS.

11. (SBU) The facilitator, Mark Matthews (U.K.), has informed us that while it will be important to make the case at the EC that more activity is required to implement the action plan, it might be a tactical error to make too much of that point this early in the process. Whatever the merits of those arguments, we share his general point that it would be beneficial for the U.S. to emphasize its support for full implementation of the Article VII action plan.

AGENDA ITEM SEVEN: DESTRUCTION OF CW

12. (SBU) The U.S. detailed plans for verification of destruction at Aberdeen, Pine Bluff and Dugway are covered under this agenda item. There is also a notation under 7.2 of the requirement for States Parties that have requested extension of destruction deadlines (U.S., Russia and a State Party) to provide a report on the status of their plans and implementation. Finally, the plan for verification of destruction of unfilled bombs in Libya is noted in EC-36/S/6, dated February 24, 2004, with the TS to report to the EC on these destruction activities.

AGENDA ITEM EIGHT: DESTRUCTION/CONVERSION OF CWPFS

13. (U) The sub-items are as follows:
-- 8.1 covers the combined plan for the VX production facility at Novocheboksarsk (EC-32/DG.8, dated February 19, 2003 with the draft decision EC-32/DEC/CRP.8, dated March 11, 2003).
-- 8.2 and 8.3 cover Pine Bluff.
-- 8.4 covers the combined plan for the Lewisite production facility at Dzerzhinsk (EC-36/DG.11, dated February 11, 2004 and the draft decision EC-36/DEC/CRP.8, dated February 11, 2004).
-- 8.5 covers the DF Production facility at Volgograd (EC-34/DG.1, dated June 4, 2003).
-- 8.6 covers changes at the facility for non-chemical parts of chemical munitions at Volgograd (EC-34/DG.3*, dated June 10, 2003).
-- 8.7 covers the Russian changes on the chloreother production facility at Novocheboksarsk (EC-36/DG.2, dated 19 January 2004).
-- 8.8 notes a DG report on CWPFS where conversion is in progress, and of progress at such facilities (EC-36/R/S/1, dated January 30, 2004).

AGENDA ITEM NINE: FACILITY AGREEMENTS

14. (U) The sub-items are as follows:

- 9.1 covers the Belgian facility agreement (EC-31/DEC/CRP.1, dated November 11, 2002).
- 9.2 covers Aberdeen.
- 9.3 covers Gorny and the corrigendum (EC-35/DEC/CRP.1, dated September 23, 2003, and Corr. 1, dated March 1, 2004).
- 9.4 covers a Spanish facility agreement (EC-36/DEC/CRP.1*, dated November 5, 2003).
- 9.5 covers a Slovak facility agreement (EC-36/P/DEC/CRP.2, dated January 22, 2004).
- 9.6 covers Pine Bluff.
- 9.7 covers Dugway.
- 9.8 covers two U.S. facility agreements for Schedule 1 facilities.
- 9.9 covers modifications to five U.S. facility agreements for CWPFFs.
- 9.10 covers five U.S. facility agreements for CW destruction facilities.

AGENDA ITEM TEN: INDUSTRY ISSUES

15. (U) States Parties will have several elements to consider during EC-36 related to industry issues. In terms of decision documents, captive use and clarification requests are likely candidates, but discussions during the industry cluster are continuing. Facilitators for clarification requests, transfer reconciliation, facility agreements, and the handbook on chemicals are also anticipated to table EC report language, as detailed below.

16. (U) Regarding captive use, as of March 10, the Indian delegation continues to lack guidance to join the consensus on the Schedule 2/3 decision text, but assures States Parties that they will have guidance by EC-36. However, during discussions on captive use on March 10, the Indian delegation attempted to reopen discussion on the issue of definition of transient intermediates and their exclusion from the Schedule 2/3 decision text. Indian technical representatives assured us that they agree with the text, as written. However, Indian delegates informed us that the text is with their industry and legal reviewers and that the text is still under review. We anticipate they will table the decision for adoption at EC-36 in the hopes that the Indian delegation will consider the text favorably.

17. (U) Regarding clarification requests, although discussions on this issue have not yet taken place during the industry intersessionals, bilateral discussions indicate that a consensus is possible on the decision text. With a few non-substantive changes requested by the German and Indian delegations, the text should be accepted and ready for adoption at EC-36.

18. (U) Facilitators for facility agreements will table EC report language to recommend the TS be more flexible in determining whether or not to pursue facility agreements during Schedule 2 inspections, taking into account plant complexity, flexibility and frequency of inspection. The text provided to us in draft form is as follows: "The Council requested the Secretariat to apply, on a case by case basis, more flexibility regarding the necessity to conclude Schedule 2 facility agreements, taking into consideration the information available through its verification activities and the interest of the Inspected State Party involved. The Council expects that this will lead to a noticeable reduction in the overall number of Schedule 2 facility agreements which are required to be negotiated between the Inspected States Parties and the Secretariat and brought before the Council for approval. The Council noted that this approach does not deprive either the Secretariat or the Inspected State Party of their roles with respect to finding an agreement on the need for a given Schedule 2 facility agreement in accordance with the provisions of the Convention."

19. (U) On the issue of clarification requests in relation to transfer reconciliation, the facilitator anticipates tabling EC report language to summarize the last round of discussions held during the February industry intersessionals, as follows: "The Executive Council noted (insert document reference of TS Clarification Request report). The Council considered that the Technical Secretariat efforts to monitor and seek to resolve

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significant discrepancies in declarations of import/export Aggregate National Data (AND) were useful and should be continued. Council members urged the Technical Secretariat (TS) to continue its efforts to streamline the clarification request process. In particular, the Council encouraged the TS to focus its efforts on these discrepancies where both the

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relative mismatch between import and export data and the absolute amount of material involved in the mismatch are significant in terms of the object and purpose of the Convention, and suggested that the relevant thresholds for production declarations were good indicators of amounts that could be considered "significant." Council members agreed the TS requires sufficient time to implement these new analytical procedures and that such efficiencies will better enable the TS to identify trends and anomalies which pose a risk to the object and purpose of the Convention, and were mindful that the harmonizing effects of C-7/DEC.14 would be seen for the first time in declaration of past activity for 2003. Therefore, the Council decided to return to this issue at an appropriate time to evaluate whether further efficiencies to maximize efforts to seek clarification for deviations contrary to the object and purpose of the Convention, while minimizing the administrative burdens both on the TS and States Parties, as necessary."

20. (U) The facilitator for the discussion on handbook on chemicals also is anticipated to table EC report language to require the TS to "mark" Schedule 2/3 chemicals in the declaration handbook that have been declared since entry into force of the Convention. Such a marking process, indicated by an "*" next to the chemical name, would assist States Parties in identifying those chemicals most normally expected to appear in trade. The text being considered is as follows: "The Executive Council took the view that all scheduled chemicals which have been declared by State Parties since EIF should be in the "Handbook on Chemicals". In order to make it easier for National Authorities to identify the most commonly used Schedule 2 and 3 Chemicals which are declared above the relevant thresholds the should be appropriately marked. The EC therefore requested the Technical Secretariat to mark the inclusion of chemicals in future versions of the "Handbook on Chemicals" through an additional column in all electronic formats and hardcopies. The heading of this column is "declared above declaration thresholds". The TS is further requested to update this information annually. The EC emphasized that marking of declared chemicals does not indicate that other chemicals which are not marked, not yet included or not yet synthesized are of greater or lesser significance for the object and purpose of the Convention."

----- AGENDA ITEM ELEVEN: APPROVED EQUIPMENT -----

21. (U) Sub-item 11.1 covers a proposed item under EC-35/DG.1, dated October 10, 2003 and the draft decision (EC-35/DEC/CRP.8, dated November 26, 2003). Sub-item 11.2 requests approval of revisions for specifications of two items (EC-36/DEC/CRP.3, dated January 9, 2004).

----- AGENDA ITEM TWELVE: NEW VALIDATED DATA -----

22. (U) The EC is requested to consider the DG's note on new validated data for inclusion in the OPCW Central Analytical Database (EC-36/DG.6, dated February 5, 2004 and draft decision EC-36/DEC/CRP.6, dated February 5, 2004).

----- AGENDA ITEM THIRTEEN: ABAF REPORT -----

23. (U) The report of the 15th Session of the AFAB is available at EC-36/DG.8, dated February 9, 2004.

----- AGENDA ITEM FOURTEEN: FINANCIAL ISSUES -----

24. (SBU) Members of the U.S. delegation as well as the other major contributors met on March 4 with DDG Hawtin and raised a number of issues which are covered under this agenda item, including insurance (14.2), reorganization of the travel-management function (14.4), and the provident fund management board (14.5). Unfortunately, the response has been less than stellar, and the report on travel management (EC-36/DG.14, dated March 4, 2004) simply noted that the TS is examining this issue. Effective management of resources is an item of increasing importance to other delegations, particularly those who make the largest contributions. Whether in the formal EC sessions or in side-bar conversations, the concern of the U.S. in particular on this issue needs to be driven home to the TS.

25. (SBU) To be fair, one of the responses from the DDG to the contributors was the pitch for the DG to have more operational flexibility in order to achieve efficiencies. The Del has supported that point and continues to see the merits of granting the DG such authority. Under 14.6 (EC-36/DG.15, dated March 4, 2004), the DG will notify the EC of transfers of appropriated funds within or between budget

programs. We will press the DDG to provide a list of specific proposals to give the DG more leeway for Washington's consideration.

126. (SBU) Finally, the DG will report on the status of the implementation of results-based budgeting, which may well be the most challenging and important task for the organization this year. The March 2-3 RBB workshop may have been tedious, but it was a success as fundamental objections to RBB appear to have dissipated among delegations. That, however, is a far cry from accomplishing the extensive amount of detailed work that must be completed on performance indicators for an RBB-based budget. The DG publicly reiterated that the 2005 budget will be provided in an RBB format, and we should ensure that there is no deviation from that goal. However, we are under no illusions about the extensive amount of work that will need to be undertaken by the TS in the coming months, and the complications that may face budget facilitators Ian Mundell (Canada) and Gordon Eckersley (Australia), should the process be substantially, but not fully, completed as budget deliberations head into the end-game.

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AGENDA ITEM FIFTEEN: OIO AND EXTERNAL AUDITOR'S
RECOMMENDATIONS
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127. (U) The reports are contained in EC-36/DG.7, dated February 9, 2004 and EC-36/S/3, dated February 11, 2004. The results of a March 8 Geneva Group meeting on the OIO and External Auditor will be reported septel, but the general consensus was that action on concrete proposals regarding these two bodies should not be initiated at this EC, but at the June EC.

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AGENDA ITEM SIXTEEN: ELECTION OF EC CHAIRMAN AND VICE CHAIRMEN
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128. (U) We understand that the Ambassador of Peru will be the Latin American candidate to assume the EC Chairmanship, and that all that remains is the official decision.

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AGENDA ITEM SEVENTEEN: ANY OTHER BUSINESS
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129. (SBU) The minor point under this item is the list of SAB recommendations (EC-36/2, dated February 16, 2004). The critical point under this agenda item is the DG's report on the status of the implementation of tenure, which has become the overriding issue among TS personnel. As we have informally notified Washington, the second round of separations under tenure has seriously affected staff morale. As a result, it is predictable that senior TS staff would try to use work regarding Libya to try to freeze the tenure policy. Such efforts must certainly be rejected, and the DG has remained solid on this point so far. However, we note that the TS is trying to come up with measures that can ease the transition of staff who have been given separation notices, and we believe such measures warrant full support from Washington.

130. (U) Ito sends.
SOBEL